

Anna Kulhavy
Office of Gas and Electricity Markets
9 Millbank
London
SW1P 3GE

Telephone: 01738 456400

E:mail: Rob.McDonald@
scottish-southern.co.uk

Date : 6 March 2009

Dear Anna,

Distributed Energy – Final Proposals and Statutory Notice for Electricity Supply Licence Modification

We welcome the opportunity to respond to the above consultation. We support the proposals to amend Standard Licence Condition (SLC) 11. The proposed changes would ensure small suppliers continue to operate within the current licensing regime and industry framework, but they would be able to apply to the Authority for a derogation, that would mean they would not need to be direct signatories to the relevant industry Codes. They would be able to discharge the relevant functions through a third party licensed supplier. This would ensure current industry processes and procedures are maintained, but small suppliers would avoid some of the complexity and cost. As indicated in our response to the June 2008 consultation, we believe this is a pragmatic approach.

We note that the proposed licence drafting introduces the concept of a guidance document under licence condition 11.4. Licence condition 11.5 states that it should set out details regarding the process for requesting a derogation, the type of information required by the Authority and the criteria to be applied. However 11.4 and 11.5 only refer to licence condition 11.3, which in turn refers to the relevant industry codes covered in 11.2. This means that the Distribution Code is excluded from these arrangements and the scope of the derogation, even though it covers connection and use of system activities. It is our understanding that the drafting has been restricted in this way as it is not Ofgem's intention to allow small suppliers to discharge the technical and operational obligations relating to connection and use of system through a Third Party Supplier. As such the small supplier will be expected to be a signatory to the Distribution Code in its own right. However the small supplier could enter into an agreement with a Third Party Supplier to discharge the commercial aspects of connection and use of system. These obligations are set out in the DCUSA, which is specified in licence condition 11.2 and therefore captured by the proposed licence amendments. On this basis, we believe the proposed amendments work.

It is Ofgem's intention to introduce the new condition in March 2009. Whilst we think this is achievable, we believe a considerable amount of work is still required before an application for derogation could be granted. We believe further work is required to develop and implement an industry model, processes and systems. For instance, further work is required to:

- define the functions that a small supplier would be able to secure from a third party supplier and how they could be discharged,
- define where code responsibilities, obligations and liabilities should rest and how they could be discharged,
- develop detailed industry processes and arrangements to support the model and
- clarify arrangements where either party is in default or is terminated e.g. under licence, industry code or commercial arrangement.

We believe it is important that the detail is established and clarity provided in order to encourage participation and provide reassurance to all industry participants that there will be no detrimental impact.

The Ofgem draft guidance document accompanying the consultation document goes some way towards providing the detail required. However we believe an additional level of detail is needed and certain areas such as settlement (energy and transportation) billing, credit, security, default and termination arrangements need to be incorporated.

We understand there have been particular problems in relation to default and termination in previous examples where code obligations have been discharged through third parties. Where arrangements collapsed, there were no specific fall back arrangements and other parties were required to step in at short notice and take on obligations under industry codes.

SSE would also appreciate further clarification on compliance monitoring and enforcement arrangements. It is our understanding that having been granted a derogation, there are no specific monitoring arrangements. The small supplier will be responsible for ensuring robust alternative arrangements remain in force. However, should any material change in circumstances take place, it is not clear how this would be communicated to the Authority or how it would be dealt with.

SSE notes the references made in the consultation document to wider areas of work. We look forward to receiving DECC's consultation on implications of the Citiworks case and potential amendments to the Class Exemption Order. We also note that other developments are taking place such as establishment of Feed In Tariff arrangements and Renewable Heat Incentive, that are also likely to significantly influence the development of DE schemes. Whilst Ofgem's proposals are a positive step forward, we believe some of these developments have significantly more potential to impact on the successful development of DE schemes. Financing remains a key issue, particularly in the current economic climate. Unless it is made easier to secure appropriate funding or improve the economics of such projects, we remain concerned that there will be little improvement in the take-up of such schemes. As such, although we support the 2 year review proposed by Ofgem, the success of the above licence amendments should be considered in the wider context.

SSE is keen to participate in any further meetings or working groups held by Ofgem to develop the industry model and services. Please contact Beverley Grubb on 01738 456712 or email beverley.grubb@scottish-southern.co.uk.

We hope you find these comments helpful.

Yours sincerely

Rob McDonald
Director of Regulation